

## Agenda Item No. 5.f

### ORDINANCE NO. 1998

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL AMENDING THE SAN RAFAEL MUNICIPAL CODE TO CHANGE THE NAME OF TITLE 19 FROM “OPEN SPACE” TO “PUBLIC PARKS, PROPERTY, AND OPEN SPACE”; TO REPEAL CHAPTER 8.10 (PARKS AND RECREATION) AND ADD A NEW CHAPTER 19.20 (PARKS AND RECREATION) TO TITLE 19; TO REPEAL CHAPTER 5.70 (MEETINGS ASSEMBLIES AND PARADES IN PUBLIC PLACES) OF TITLE 5 AND ADD A NEW CHAPTER 19.30 (ASSEMBLIES AND PARADES IN PUBLIC STREETS AND RIGHTS-OF-WAY) TO TITLE 19; TO ADD NEW CHAPTER 19.40 (EXPRESSIVE ACTIVITIES IN PUBLIC PLACES) TO TITLE 19; TO ADD NEW SECTION 5.60.054 TO CHAPTER 5.60 (PARKING REGULATIONS); AND FINDING THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

The City Council of the City of San Rafael does ordain as follows:

**Section 1.** The City Council of the City of San Rafael hereby finds and declares as follows:

- A. Chapter 8.10 of the San Rafael Municipal Code entitled “Parks and Recreation” was last amended by Ordinance No. 1795 in 2002, and to proactively manage the City's parks and other public places, to ensure their safe usage and enjoyment by residents, and to meet the needs of the changing community, a periodic review and update of the regulations is necessary.
- B. It will facilitate the transparency and ease of use of the San Rafael Municipal Code to move the regulations concerning activities on public property, including public parks and recreation, parades and assemblies, and expressive activities to the same part of the Code that regulates public open space.
- C. The City Council desires to clarify that camping is prohibited in public parking garages.

**Section 2:** Amendment to the Title of Title 19 – Open Space – of the San Rafael Municipal Code

The Title of Title 19 – Open Space, of the San Rafael Municipal Code is hereby amended to read as follows:

Title 19 – PUBLIC PARKS, PROPERTY, AND OPEN SPACE

**Section 3:** Repeal of Chapter 8.10 – Parks and Recreation, of Title 8 – Morals and Conduct, of the San Rafael Municipal Code

Chapter 8.10 – Parks and Recreation, of Title 8 – Morals and Conduct, of the San Rafael Municipal Code is hereby repealed in its entirety.

**Section 4:** Adoption of Chapter 19.20 – Parks and Recreation, of Title 19 – Public Parks, Property, and Open Space, of the San Rafael Municipal Code

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New Chapter 19.20 – Parks and Recreation, of Title 19 – Public Parks, Property, and Open Space, is hereby added to the San Rafael Municipal Code to read as set forth in Exhibit A, attached hereto and incorporated herein by this reference.

### **Section 5: Repeal of Chapter 5.70 – Meetings, Assemblies and Parades in Public Places, of Title 5 – Traffic Regulations, of the San Rafael Municipal Code**

Chapter 5.70 –Meetings, Assemblies and Parades in Public Places, of Title 5 – Traffic Regulations, of the San Rafael Municipal Code is hereby repealed in its entirety.

### **Section 6: Adoption of Chapter 19.30 -- Assemblies and Parades in Public Streets and Rights-of-Way, of Title 19 – Public Parks, Property, and Open Space, of the San Rafael Municipal Code**

A new Chapter 19.30 – Assemblies and Parades in Public Streets and Rights-of-Way, of Title 19 – Public Parks, Property and Open Space, is hereby added to the San Rafael Municipal Code to read as set forth in Exhibit B, attached hereto and incorporated herein by this reference.

### **Section 7: Adoption of Chapter 19.40 – Expressive Activity in Public Places, of Title 19 – Public Parks, Property, and Open Space, of the San Rafael Municipal Code**

A new Chapter 19.40 – Expressive Activity in Public Places, of Title 19 – Public Parks, Property, and Open Space, of the San Rafael Municipal Code is hereby adopted to read as set forth in Exhibit C, attached hereto and incorporated herein by this reference.

### **Section 8: Adoption of Section 5.60.054 – Overnight Camping in Parking Garages Prohibited, of Chapter 5.60 -- Parking Regulations, of Title 5 – Traffic Regulations, of the San Rafael Municipal Code**

A new section 5.60.054 is hereby added to Chapter 5.60 – Parking Regulations, of Title 5 –Traffic Regulations, of the San Rafael Municipal Code, to read as follows:

5.60.054 – Overnight Parking in Parking Garages Prohibited.

No person shall camp, or use or store camp facilities or camp paraphernalia, as defined in section 19.20.010 of this code, in or on the premises of any parking garage owned or operated by the City of San Rafael.

**Section 9. Severability.** If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

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**Section 10. Compliance with CEQA.** The City Council hereby finds that the action to adopt this ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3) of the CEQA Guidelines, because it can be seen with certainty that there is no possibility the adoption of this ordinance may have a significant effect on the environment, and pursuant to CEQA Guidelines section 15183 (consistent with the general plan and zoning).

**Section 11. Publication; Effective Date.** This ordinance shall be published once, in full or in summary form, before its final passage, in a newspaper of general circulation, published, and circulated in the City of San Rafael, and shall be in full force and effect thirty (30) days after its final passage. If published in summary form, the summary shall also be published within fifteen (15) days after the adoption, together with the names of those Councilmembers voting for or against same, in a newspaper of general circulation published and circulated in the City of San Rafael, County of Marin, State of California.

  
KATE COLIN, Mayor

ATTEST:

  
LINDSAY LARA, City Clerk

The foregoing Ordinance No. 1998 was read and introduced at a Regular Meeting of the City Council of the City of San Rafael, held on the 2<sup>nd</sup> day of August 2021 and ordered passed to print by the following vote, to wit:

AYES: Councilmembers: Bushey, Hill, Kertz, Llorens Gulati & Mayor Kate

NOES: Councilmembers: None

ABSENT: Councilmembers: None

and will come up for adoption as an Ordinance of the City of San Rafael at a Regular Meeting of the Council to be held on the 16<sup>th</sup> day of August 2021.

  
LINDSAY LARA, City Clerk

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### EXHIBIT A

#### TITLE 19 CHAPTER 19.20 PARKS AND RECREATION

##### Chapter 19.20 - PARKS AND RECREATION

###### 19.20.010 - Purpose and Intent

The purpose and intent of this chapter is to provide rules and regulations respecting the use of City parks and recreation facilities which are necessary to protect the public health, safety and general welfare of the residents of the City and users of parks and recreation facilities, including prohibiting smoking in park and recreational facilities, and which are necessary to ensure that the parks and recreation facilities are maintained in a manner consistent with the broadest use thereof by the residents of the City. Unless otherwise stated, the provisions of this chapter apply to any City park and recreation facility.

###### 19.20.020 - Definitions.

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

- A. "Amplified sound" means speech, sounds, or music projected or transmitted by electronic equipment including amplifiers, loudspeakers, microphones, bull horns or similar devices or combinations of devices which are intended to increase the volume, range, distance or intensity of speech, sounds, or music and are powered by electricity, battery or combustible fuel.
- B. "Buildings" means and includes those buildings, structures, or any portion thereof, within or on any City owned land, including buildings and structures within Parks and on Recreation Facilities. "Buildings" include "Cultural and Community Centers."
- C. "Camp" or "Camping" means occupying camp facilities, using camp paraphernalia, or residing in or using a public space for living accommodation purposes, including sleeping and making preparations to sleep (including the laying down of bedding for the purpose of sleeping). "Camp" or "camping" shall also mean the conduct of these activities in a vehicle. "Camp" or "camping" shall not mean occupying camp facilities or using camp paraphernalia for temporary picnicking, recreating, or resting purposes. "Camp paraphernalia" includes, but is not limited to, tents, tarpaulins, cots, beds, mattresses, sleeping bags, hammocks, non-city designated cooking facilities and similar equipment.
- D. "City Manager" means City Manager or their designee. For example, in some circumstances the administrative responsibility under this chapter may be delegated to the Library and Recreation Department or the Department of Public Works, and in circumstances requiring enforcement, that responsibility may be delegated to the Police Department, Fire Department, Parking Services or Code Enforcement.
- E. "Cultural and Community Centers" means and includes City-owned properties in which classes, activities, events, meetings, seminars, banquets, weddings, fundraisers,

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historical tours and activities, theater, gardening, and other similar activities may take place.

- F. "Expressive Activity" means conduct, the sole or principal object of which is the expression, dissemination or communication by verbal, visual, literary or auditory means of opinion, views or ideas. Expressive Activity includes, but is not limited to, public oratory and the distribution of literature.
- G. "Facility amenities" include, but are not limited to, playground and exercise equipment, park or public place benches, picnic tables, public art, public buildings, swimming pools, walls, fences, gates, trees, monuments, signs, buildings, roofs, playing surfaces, railings, backstops, parking lots, trails, or tables in a park or public place, or upon any park property.
- H. "Open space property" means any area described in San Rafael Municipal Code Section 19.10.020.
- I. "Park(s)" means and includes every park, plaza, outdoor public area, trails, open space property, greenbelt, or portion thereof together with any accompanying parking lot or staging area, which is owned, managed, or controlled by the City of San Rafael for the recreational use and/or enjoyment of the public.
- J. "Permit" means a permit issued by the City of San Rafael which permit shall contain the following information: the name of person or organization to whom the permit is issued; the name of the park and/or recreation facility and/or the identification of the activity and designated area where such activity may be conducted; the effective date(s) and times of the permitted activity; and such other administrative information as may be necessary.
- K. "Person" means an individual, association (regardless of incorporation status), organization, partnership, firm, corporation, or company.
- L. "Recreation Facility" means fields, courts, pools, amphitheaters, areas specifically designed for organized activities such as, but not limited to, baseball, softball, soccer, tennis, basketball, and organized group gatherings which are owned, managed, or controlled by the City of San Rafael for the recreational use and/or enjoyment of the public.
- M. "Refuse" means any garbage, trash, bottles, cans, papers, ashes, food and vegetable material, rubbish, industrial wastes, animal waste, grass clippings, yard clippings, tree or shrub pruning or any other discarded substance, matter or thing, whether liquid or solid.
- N. "Store" means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.
- O. "Vehicle" means any wheeled conveyance, whether motor-powered, animal-drawn, or self-propelled, and shall include any trailer in tow of any size, kind or description. For purposes of this chapter, a vehicle does not include a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, used by a sidewalk vendor engaging in sidewalk vending with a permit issued for such activity.

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### 19.20.030 - Permit Required for Exclusive Uses and Large Gatherings.

- A. A person wanting either (1) exclusive use of any Park, Building or portion thereof, or (2) use of a Park, Building or portion thereof for gatherings of 25 or more persons, must apply for and obtain a permit for such use, activity or event, from the City Manager. It is unlawful for any person to engage in any use of any Park, Building or portion thereof, for which a permit is required, without obtaining such a permit.
- B. Permits issued pursuant to this section shall entitle permittees, for the duration of said permit, to exclusive use of the portion of the Park or Building specified in said permit.
- C. The fees for issuance of permits issued pursuant to this section shall be set forth by separate resolution of the City Council.
- D. Nothing in this section shall require persons or entities to obtain a permit for Expressive Activities. Permit requirements for Expressive Activities are set forth in Chapter 19.30 of this Code.

### 19.20.040 - Permit Application and Conditions of Approval

- A. Permit Regulations. All applications for permits required by the provisions of this chapter shall be made to the City Manager on such forms provided and shall contain such information as the City Manager shall deem appropriate. The City Manager shall adopt regulations establishing permit application procedures which regulations may be amended from time to time.
- B. Permit Fees. Applications for permits required under the provisions of this chapter shall be accompanied by permit fees set forth by separate resolution of the City Council.
- C. Conditions of Approval. Permits issued under the provisions of this chapter are subject to such reasonable conditions as the City Manager or designee may determine necessary to coordinate multiple uses of public property, assure preservation of public property and public places, prevent dangerous, unlawful or impermissible uses, protect the safety of persons and property and to control vehicular and pedestrian traffic in and around the park. These conditions may include conditions relating to waste management and restoration of the park, environmental protection, conditions to ensure safe accommodation of an event's pedestrian and vehicular traffic, and reasonable designation of alternate sites, times, dates, or modes for exercising expressive activity. Such conditions may include, but shall not be limited to, the following:
  - 1. Limitations upon the times during which the proposed use will be permitted.
  - 2. Limitations upon the locations at which the use will be permitted.
  - 3. Limitations upon the number of people that will be permitted to participate in a use at a given location.
  - 4. Limitations upon the type of equipment allowed and the manner in which it is utilized, including prohibitions on amplified sound.

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5. Requirement that the applicant furnishes private patrol or security where the nature of the use will impose undue burdens on the police services of the City.
6. Requirement that the applicant provide temporary sanitary facilities, trash containers, etc.
7. Requirement that the applicant post fees, deposits or other security to cover extraordinary costs which may be incurred by the City as a result of the proposed use.

### 19.20.050 - Criteria for Issuance of Permits.

The City Manager shall issue a permit pursuant to the provisions of this chapter unless the City Manager determines the application meets any of the following criteria:

- A. The information contained in the application, or supplemental information provided, is not complete or is materially false or misleading.
- B. The applicant has failed to submit a complete application, supply satisfactory evidence of insurance, or has not remitted the fees or deposits as required by this chapter.
- C. The Park, Building or portion thereof is unavailable for the period for which the permit is requested.
- D. The area proposed for the applicant's use or activity could not physically accommodate the number of participants expected to participate in a safe manner.
- E. The proposed use, activity or event is not compatible with the uses established for the requested park, building or portion thereof, in that it unreasonably interferes with use of the park by others.
- F. The proposed use has a realistic potential to create a threat to the public health, safety or welfare, or to damage public property, which may not be adequately remedied by reasonable traffic control and other safety measures. However, this provision does not authorize the denial of a permit because of a real or perceived need to protect persons engaging in Expressive Activity or property from the conduct of others, if reasonable permit conditions can be imposed to allow for adequate protection of such participants with the number of police officers available to police such proposed use.
- G. The proposed use would require the diversion of public safety or other City employees from their normal duties so as to unreasonably reduce adequate levels of service to any other portion of the City, or the event will adversely affect the City's ability to reasonably perform municipal functions or furnish City services.
- H. The proposed use, event or activity will have a significant adverse environmental impact.
- I. The proposed use would be in conflict with applicable provisions of any federal, state and/or local law.

The City Manager's decision to issue or deny a permit pursuant to the provisions of this chapter shall be final and not subject to appeal.

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### 19.20.060 - Permit holder responsibilities and obligations.

After a person obtains a permit, that permit holder must:

- A. Comply with all rules and regulations and all applicable City ordinances as though the same were incorporated into the permit.
- B. Comply with all conditions imposed by the permit.
- C. Inform all attendees of the conditions of the permit and the applicable rules and regulations.

### 19.20.070 – Use of Parks and Buildings.

#### A. Rules and Regulations Regarding Use.

1. The City Manager is vested with authority over and control of all Parks and Buildings for the purpose of causing to be corrected any condition which violates, or which would tend to cause or contribute to any violation of, the purpose and provisions of this chapter.
2. The City Manager may establish reasonable rules, policies, or regulations governing the use and enjoyment of any Park or Building in order to maximize the use and enjoyment of the Park or Building by the public in addition to those contained in this chapter, and no person shall disobey or violate same.

#### B. Hours. Except as provided in this subsection, Parks and Buildings are open for public use from sunrise until sunset. Except as provided in this subsection, no person shall enter, remain in, cross upon or use, any park, building or portion thereof, between sunset and sunrise.

##### 1. Exceptions.

- a. At any time, the City Manager may exclude any person(s), whether or not such persons are permit holders, from parks, buildings, or portions thereof, where such exclusion is necessary to protect public property, the public health, safety or welfare or to preserve the public peace.
- b. Whenever any park, building or portion thereof, has been reserved for exclusive use of a permit holder, that area may be closed to all others not associated with that permit holder's exclusive use.
- c. A permit holder may use the Park, Building or portion thereof beyond regular hours if allowed under the permit holder's permit.
- d. Regardless of park and building hours restrictions, a person may use lighted parks, buildings, or portions thereof, under the conditions posted and as specifically designated by the City Manager. No person shall use any Park, Building, or portion thereof, in violation of such posted hours and conditions.



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### C. Dogs, pets and other animals.

1. No person shall bring or allow a dog, pet, or other animal owned or maintained by them into any park, building or portion thereof, unless such dog or pet is on a leash and under control at all times.
2. Any person having custody or control of a dog, pet, or other animal in any park, building, or portion thereof, shall be responsible for any damage caused by such dog, pet, or other animal even if on leash and under control, including but not limited to the removal of feces.
3. The provisions of subsection A 1 above shall not apply to service dogs if laws or regulations authorize service dogs in areas otherwise prohibited by this chapter.
4. No person shall abandon, hunt, capture, harm, or feed any animal in any park or building.

### D. Alcohol.

1. No person shall either consume any alcoholic beverage or possess any alcoholic beverage open container in any park, building or any parking lots associated therewith.
2. A person may possess or consume alcoholic beverages in a park, building or portion thereof if the person is associated with or rightfully attending a use, activity, or event for which a permit has been issued and the permit allows alcohol use.
3. A person, whether a permit holder or not, may not furnish or sell alcoholic beverages in parks, buildings or portions thereof, unless that person:
  - a. Complies with all applicable rules and regulations of the alcohol beverage control board.
  - b. Obtains the appropriate license from the alcohol beverage control board.
  - c. Obtains a permit from the City Manager permitting the use and consumption of alcoholic beverages.
4. No person, whether a permit holder or not, shall enter or remain in any park, building or portion thereof, while under the influence of an alcoholic beverage, a drug of any type or a combination thereof.

### E. Vehicles in parks.

1. Except for police officers and City employees acting in the course and scope of their employment, no person shall operate any motorized vehicle into any park except for on the streets, highways, and designated parking areas for a park.

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2. All provisions of the Vehicle Code of the State of California in regard to equipment and operation of vehicles shall apply to all parks or portions thereof.
  3. All persons in a park or portion thereof shall obey all police officers and City employees authorized and instructed to direct traffic in any park or portion thereof in accordance with the provisions of these regulations and such supplementary regulations as may be issued by the City Manager.
  4. All persons in any park or portion thereof, shall carefully observe all traffic signs indicating speed, direction, caution, stopping or parking, and all other signs posted for proper control and to safeguard life and property.
  5. No person shall operate or use any bicycle, scooter, skateboard or roller/in-line skates, in any park except upon paved park roads, or upon pathways and other areas which have been specifically designated for such use.
  6. No person shall park any vehicle in any park except in an established or designated parking area, and such use shall be in accordance with the posted directions or with the instructions of a duly authorized attendant.
  7. A person shall be permitted to wheel or push, not ride, a bicycle by hand over any grassy area or on any paved area reserved for pedestrian use in any park.
  8. No person shall use or permit use of a skateboard or scooter, in a manner that results in two or more persons being carried on such scooter or skateboard, nor use a bicycle to carry two or more persons unless the bicycle is specifically designed to carry such additional persons or attached with a trailer designed to carry persons.
  9. No person shall leave a bicycle in a place other than a bicycle rack when such is provided and there is a space available.
  10. No person shall leave a bicycle, scooter, skateboard or roller/in-line skates lying on the ground, sidewalk or pavement, or set against trees, or in any walkway, path or paved area designed for pedestrians.
- F. Refuse and pollution. Pursuant to SRMC 19.12.034, no person shall throw or deposit any refuse, rubbish, garbage, debris, paper, glass, dirt, dust animal or vegetable matter, cans, sweepings or other matters of similar nature in or upon any Park or Building except in authorized public receptacles.

### 19.20.080 - Prohibited activities.

- A. Amplified Sound. No person shall use or create any amplified sound in any Park, Building or portion thereof where such noise violates the provisions of SRMC Chapter 8.13.
- B. Fires.
  1. No person shall build, kindle or light a fire in any park, for any purpose, except for a fire maintained in a City-owned and designated park fire pit or park barbecue.

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2. No person shall leave an area where a fire has been kindled or maintained until the fire has been extinguished and is cold to the touch.
  3. No person shall possess or ignite any fireworks, as defined in Health and Safety Code section 12511, in any park. This prohibition includes both “dangerous fireworks” as defined in Health and Safety Code section 12505 and “safe and sane fireworks” as defined in Health and Safety Code section 12529.
  4. No person shall leave unattended any lit cigar, cigarette, match or other flammable article.
- C. Camping.
1. No person shall camp, in any park, building or portion thereof, including the parking lot of any such area.
  2. No person shall use or store camp facilities or camp paraphernalia in any park, building, or portion thereof, including the parking lot of any such area.
  3. Nothing in this section shall be deemed to prohibit camping on all public property, including parks, when there is no alternative shelter available to the person camping; provided that the City Manager may nevertheless absolutely prohibit camping at any time in one or more specific parks where such prohibition is determined to be a threat to the public, health, safety, or welfare.
- D. Guns and Dangerous Instruments. No person, except those persons listed in California Penal Code Section 12031(b) and 12031(c), shall have in their possession in any park, building or portion thereof, any dangerous weapon, bow and arrows, pellet or air gun, slingshot, crossbow, firearm, or destructive device as that term is defined in Section 12301 of the Penal Code.
- E. Swimming and boats. No person shall swim, wade, float, dive or otherwise enter any fountain, pond, lake, stream or other water feature, natural or man-made, in any Park or Building except in those areas so designated by City for such swimming, wading, floating or diving.
- F. Golfing. No person in a park, building or portion thereof, shall golf, including but not limited to chipping, putting, driving or otherwise practicing golf.
- G. Commercial Activities. No person shall practice, carry on, or conduct any business or profession or other commercial enterprise, nor sell or offer for sale any service, merchandise, article, or anything whatever, nor station or place any stand, cart, or vehicle for the transportation, sale or display of any such article or thing, in any park, building or portion thereof, except by permit issued by the City Manager and subject to all other provisions of this code. This subsection shall not apply to City concessionaires or to persons acting under a lease, license or permit issued by the City.
- H. Goods or services—Exhibitions, private lessons and classes. No person in a park, building, or portion thereof, shall: (1) sell any goods or services; (2) conduct or maintain any show, performance, concert, place of amusement or exhibition; or (3) conduct private lessons or classes unless such person has received the prior written permission of the City Manager or other City department charged with authorizing such activities.

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- I. Advertising. No person shall place, post, paste, glue or otherwise affix, distribute or erect any handbill, circular, pamphlet, sign, placard, inscription or advertisement to any tree, fence, shrub, stick or structure in any park, building, or portion thereof.
- J. Smoking. Pursuant to section 9.04.050 of this code, no person shall smoke in any Park or Building.
- K. Gambling. No person shall play or bet at or against any game which is played, conducted, dealt or carried on for money, chips, shell, credit, or any other representative of value, or maintain or exhibit any gambling table or other instrument of gambling or gaming, or play any game prohibited by any city ordinance or state law, in any park, building or portion thereof.
- L. Motor driven cycles, model vehicles and planes. No person shall operate, transport or maintain any motor driven cycle, motorcycle, motorized bicycle, moped, or shared mobility device as the same are defined in the Vehicle Code or determined in the reasonable discretion of the Chief of Police or their designee, within any park, building, or portion thereof, except in those areas as may be specifically designated for such purpose or with the written permission of the City Manager. No person shall operate any airborne, waterborne, land borne model or remote-controlled plane, any rocket or missile, or any vessel or vehicle, whether such plane, rocket, missile, drone, vessel or vehicle uses an internal combustion engine or is propelled/operated otherwise, within any park, building or portion thereof except in those areas as may be specifically designated for such purpose or with the written permission of the City Manager.
- M. Special Amusement Equipment. No person shall use construct or use any special amusement equipment in any park unless authorized under terms of a permit issued by the City Manager. For the purposes of this provision, "special amusement equipment" shall mean the use of any non-personal equipment that requires the use of running water, generators, or connection to park electrical utilities to use or operate, or requires the erection of any permanent or temporary structure over 6 feet tall, and shall specifically include moon bounces or any inflatable bounce houses, climbing walls, carousels, dunk tanks, ball crawls, pony rides, slip and slides. Permits issued for such uses shall require indemnification of the City, and insurance naming the City as an additional insured.
- N. Interference with Permitted Exclusive Use. No person shall interfere with an exclusive use permitted under this chapter, and each must immediately vacate that portion of any park or building that has been reserved for exclusive use by another person upon being presented with a permit obtained pursuant to this chapter.
- O. No person shall mark, deface, injure, tamper with, displace or remove, any bridges, tables, benches, fireplaces, railings, paving, water lines, other public utilities, signs, notices or placards whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or any improvements; structures, equipment, facilities or Park or Building property or appurtenances whatsoever, either real or personal, in any Park, Building, or portion thereof.
- P. No person shall litter, soil or defile restrooms.

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- Q. No person shall dig, remove or vandalize any soil, rock, stones, trees, shrubs or plants, down timber or other wood or materials, or make any excavation by tool, equipment, blasting, or other means or agency, in any park.
- R. No person shall construct or erect any building, edifice, artwork or structure of any kind, permanent or temporary, or construct any public service utility, including but not limited to, any overhead wires, into, upon, through, under or across any Park or Building, without obtaining any and all permits required by this code or other applicable regulations.
- S. No person shall enter, cross or remain in any lawn, grass plot, planting area, or any other area in any park, where prohibited by the City Manager, and where such prohibition is indicated by appropriate signs, fencing or cordoning, or by warning cones.
- T. No person shall damage, cut, carve, transplant, pick, remove or injure in any manner any tree, flower, bush or plant in any park or building.
- U. No person shall climb any tree or walk, stand or sit upon monuments, vases, fountains, water features, railings, fences, statutes or structures of any kind not intended for such purposes.

### 19.20.090 - Park closure.

Any park, building or portion thereof may be declared closed to the public by the City Manager at any time and for any interval of time, either temporarily or at regular and stated intervals (daily or otherwise) and either entirely or only to certain uses, as the City Manager finds reasonably necessary for reasons including but not limited to: natural disaster; local, State and/or National emergencies; for the protection of property; and/or for the public health, safety or welfare. No person shall enter or remain in any park, building, or portion thereof, which has been closed and noticed as closed by appropriate signs, fencing or cordoning, or other means giving notice of park closure.

### 19.20.100 - Enforcement.

The provisions of this chapter may be enforced by any code enforcement official as defined in Section 1.08.020 of this code.

### 19.20.110 – Violations of Chapter.

It is unlawful for any person to violate any of the provisions of this chapter, any park rule or regulation adopted pursuant to this Chapter, or to violate any of the terms and conditions of a permit issued pursuant to this chapter. Violation of this Chapter and any permits issued pursuant to this Chapter are deemed a public nuisance and may be subject to enforcement pursuant to Chapters 1.40, 1.42, 1.44 and 1.46 of this code.

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### **EXHIBIT B**

#### **TITLE 19**

#### **CHAPTER 19.30**

### **ASSEMBLIES AND PARADES IN PUBLIC STREETS AND RIGHTS-OF-WAY**

#### **Chapter 19.30- ASSEMBLIES AND PARADES IN PUBLIC STREETS AND RIGHTS-OF-WAY**

##### 19.30.010 - Definitions.

As used in this chapter:

- A. "Assembly" means the assembling or coming together of a number of persons for a particular purpose.
- B. "Expressive Activity" shall have that meaning set forth in section 19.20.020 of this code.
- C. "Funeral procession" means a single direct movement from a mortuary or church to the place of burial of a human body, under direction of an authorized funeral director.
- D. "March" means a planned or organized gathering of a group of persons, or which may reasonably be expected to result in the gathering of a group of persons, upon any public street, which gathering travels through, across and/or along public streets.
- E. "Parade" means a planned or organized procession of any kind.

##### 19.30.020 - Permit required.

Except as otherwise provided in this Chapter or other applicable law, an Event Permit shall be required to be obtained from the San Rafael Police Department for the following activities:

- A. A parade, procession, march or assembly consisting of persons, animals, vehicles, or any other combination thereof, which is to assemble or travel in unison on any public street, highway, alley, sidewalk or other City-designated public right-of-way and which either: (1) may impede, obstruct, impair or interfere with the free use of such public street, highway, alley, sidewalk, or other public way owned, controlled or maintained by the City; or (2) does not comply with normal or usual traffic regulations or controls.
- B. Event Permits shall be on forms provided by the City and shall require insurance and indemnification from the permittee.
- C. Events Permits requiring the consent of other governmental or private entities shall not be issued where such consent is not provided.
- D. Nothing in this section shall require persons or entities to obtain a permit for Expressive Activities or spontaneous events. Permit requirements for Expressive Activities and regulations regarding spontaneous events are set forth in chapter 19.40 of this code.

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### 19.30.030 - Exceptions.

This chapter shall not apply to any of the following:

- A. Funeral processions.
- B. A governmental agency acting within the scope of its functions.
- C. Expressive Activities as that term is defined in chapter 19.40 of this code.
- D. Activities subject to permits pursuant to chapter 19.20 of this code.

### 19.30.040 - Application.

Application for permits under this chapter must be filed with the chief of police not less than ninety (90) days in advance of a proposed parade, and not less than seven (7) days in advance of a proposed public march or assembly. Late applications may be accepted if filed sufficiently in advance of the date of the proposed activity to enable the chief of police to determine that said activity will meet the requirements set forth in section 19.30.050. The application shall be in writing and shall give the following information:

- A. The name, address and telephone number of the person requesting the permit. If the activity is proposed to be conducted for, on behalf of, or by any organization, the name, address and telephone number of the headquarters of the organization and the authorized head of such organization shall be stated.
- B. The name, address and telephone number of the person who will be directly in charge of and responsible for the activity.
- C. The purpose of the activity.
- D. The date, time and location or route of the proposed activity.
- E. The approximate number of persons who will participate in the activity, and the number and kind of vehicles, equipment and animals, which will be used.
- F. Plans for the dispersal of the activity, including the times and locations thereof.
- G. A statement as to whether the activity will occupy all or only a portion of the streets proposed to be traversed.
- H. A statement as to whether a permit has been requested or obtained from any other city within which said activity shall commence, terminate or occur in part.

### 19.30.050 - Findings required.

The chief of police or their designated representative shall issue a permit as provided for hereunder when, from a consideration of the application and from such other information as may otherwise be obtained, they find that:

- A. The activity will not substantially interrupt the safe and orderly movements of traffic in areas of the City beyond the direct vicinity of the proposed activity.

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- B. The activity will not require the diversion of so great a number of police officers to properly police the activity and the areas contiguous thereto, as to prevent normal police protection to the city.
- C. The concentration of persons, animals and vehicles will not unduly interfere with proper fire and police protection of, or ambulance service to, areas where the activity will take place, areas contiguous to such area or the remainder of the City.
- D. The activity will not unduly interfere with the movement of fire-fighting equipment en route to a fire, or the movement of other emergency equipment.
- E. The proposed activity includes sufficient security and/or safety mechanisms and protocols so as protect the general health, safety and welfare of the activity participants and the public at large.
- F. Such activity is not to be held for the sole purpose of advertising the goods, wares, or merchandise of a particular business establishment or vendor.
- G. The activity as proposed, will not violate any applicable law.

### 19.30.060 - Conditions to permit.

- A. The chief of police, or their designated representative, shall condition the permit on the activity complying with the findings set forth in section 19.30.050. The chief of police, or their designated representative shall require the payment for additional police personnel required for proper management of the activity.
- B. Each permittee shall execute a hold harmless agreement in a form approved by the City agreeing to defend, indemnify and hold harmless the City against losses and liabilities incurred from conduct of the permittee or its officers, employees, agents, and invitees.
- C. The permittee shall procure and maintain in full force and effect during the term of the permit a policy of insurance which policy includes the City, its boards, officers, agents, employees and volunteers as additional insureds and which provides the standard coverage required by the City.

### 19.30.070 - Prior application.

If a prior permit application shall have been made for an activity proposed to be held at the same time or place, the chief of police or their designated representative may refuse approval of the later application. In case of such refusal, they shall forthwith send the applicant a written notice that they may apply for an alternate time and place.

### 19.30.080 - Notice of issuance or denial.

Written notice of the issuance or denial of a permit shall be provided to the applicant by the chief of police or their designated representative within ten (10) days of receipt of a completed application. If a permit is denied said written notice shall state the reasons for denial.



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### 19.30.090 - Appeal procedure.

The applicant shall have the right to appeal the denial of a permit to the city manager. A notice of appeal shall be filed with the city clerk within two days after receipt of notice of the denial. The city manager shall act upon the appeal within 30 days following receipt of notice of appeal. It may affirm or modify the action of the chief of police or their designated representative. The city manager's decision shall be final.

### 19.30.100 - Damage or Injury to City Property

The permittee shall be responsible for the removal of all written materials and other property, including restoring the city street, sidewalk, and/or right-of-way in which the activity occurred to its original condition prior to the activity. The permittee shall be responsible for any damage resulting from the activity.

### 19.30.110 - Duty of permittee.

- A. A permittee hereunder shall comply with all terms and conditions of said permit and with all applicable laws and ordinances.
- B. The written permit obtained pursuant to this chapter shall be carried by the person heading or leading the activity for which the permit was issued.

### 19.30.120 - Revocation of permit.

The chief of police or their designated representative may revoke any permit issued hereunder if (1) the permittee fails to comply with the terms and conditions of said permit, and any other local, state or federal laws governing the activity, or (2) if the activity, because of the manner in which it is being conducted, is jeopardizing those elements of the public safety or welfare set forth in section 19.30.050.

### 19.30.130 - Public conduct during an assembly or parade.

- A. It is unlawful for any person to unreasonably obstruct, impede or interfere with any parade, procession, march or assembly or with any person, vehicle or animal participating in such a parade, meeting or assembly for which a permit has been granted in accordance with the provisions of this chapter.
- B. The chief of police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a highway or part thereof constituting a part of the route of a parade, procession, march or assembly. The chief of police shall post signs to such effect, and it is unlawful for any person to park or leave unattended any vehicle in violation thereof.

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### **EXHIBIT C**

#### **TITLE 19 CHAPTER 19.40 EXPRESSIVE ACTIVITY IN PUBLIC PLACES**

##### **Chapter 19.40 – EXPRESSIVE ACTIVITY IN PUBLIC PLACES**

###### 19.40.010 – Purpose and Intent

The purpose of this Chapter is to protect the First Amendment rights of the people of San Rafael to peaceably assemble and/or protest in the City's public places and to establish the least restrictive and reasonable time, place and manner regulation of these activities. It is further intended to provide a coordinated process for managing events to ensure the health and safety of event patrons, residents, workers, and other visitors, to prohibit illegal activities from occurring at the community events, and to create mechanisms for cost recovery and use charges, to the extent authorized by law, while not unduly impacting the viability of events.

###### 19.40.020 – Definitions

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

- A. "Buildings" has the same meaning as in Section 19.20.020(B) of this Code.
- B. "Expressive activity" means conduct, the sole or principal object of which is the expression of opinion, views, or ideas, protected by the First Amendment of the U.S. Constitution. Expressive activity includes, but is not limited to, public oratory and distribution of literature.
- C. "Park(s)" has the same meaning as in Section 19.20.020(I) of this Code.
- D. "Permit" has the same meaning as in Chapter 19.20.020(J) of this Code.

###### 19.40.030 – Permit Required for Large Expressive Activity Gatherings

- A. Except as otherwise provided by the Municipal Code or other applicable law, rule or regulation, an expressive activity permit shall be required to be obtained from the Police Department for following:
  - 1. Any activity or event with the principal purpose of engaging in expressive activity, on City owned, controlled, or maintained property, where the activity involves a gathering of one hundred or more persons, or involving fifty or more persons at the San Rafael City Plaza.
- B. Expressive activity permits shall not be required to be obtained from the Police Department for the following types of activities:

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1. Any expressive activity on City owned, controlled, or maintained property involving less than one hundred persons, or involving less than fifty persons at the San Rafael City Plaza.
2. School grounds are exempt from the requirements of this Chapter.
3. Spontaneous events which are occasioned by news or affairs coming into public knowledge less than forty-eight hours prior to such event may be conducted on (1) City property surrounding City Hall, (2) the San Rafael Plaza, (3) City sidewalks as long as the spontaneous event on a sidewalk does not impede vehicular traffic, or (4) the full public right-of-way, only if authorized by the Chief of Police and City Manager in the interest of community health and welfare, without the organizers first having to obtain an expressive activity permit, if the event organizer provides at least four hours prior notice to the Chief of Police of the date, time, and location(s) where the event is to be conducted, their contact information, and an estimate of the number of persons that will be participating. Events which require advance planning such as recreation events, competition/contests/spectator sports, fairs, festivals, carnivals, ticketed events, sales/trade shows or events which require a permit from the San Rafael Parks and Recreation Department shall not be considered spontaneous events.

### 19.40.040 – Permit Application

- A. To receive an expressive activity permit, a person must complete and file an application with the Police department on a form approved by the City. The applicant must provide the following information:
  1. A description of the proposed use, event, or activity.
  2. The street or other public property and the specific area or areas thereof which will be utilized in connection with the proposed use, event, or activity.
  3. The manner in which the public property will be utilized.
  4. The date or dates and the specific times thereof, including set-up and tear-down, that the public property is to be utilized for the described use, event, or activity.
  5. The name, address and telephone number of the person, entity, or organization sponsoring or conducting the proposed event.
  6. The name, address and telephone number of the person or persons to be contacted regarding the application or permit.
- B. The application shall be filed no later than two days before commencement of the event. The Police Department shall review and issue or deny the application within one day of receipt of a completed application.

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### 19.40.050 – Review Process

- A. Subject to the criteria for denial set forth in Section 19.40.060, the Police Department shall issue an expressive conduct permit if it is determined that all of the following criteria have been met:
1. The proposed use of City property is not governed by or subject to any other permit procedures provided elsewhere in this Code.
  2. The preparation for or the conduct of the proposed activity will not unduly impede, obstruct, or interfere with the operation of emergency vehicles or equipment in or through the particular permit area or adversely affect the City's ability to perform municipal functions or furnish city services in the vicinity of the permit area.
  3. The proposed activity does not otherwise present a substantial or unwarranted safety, noise, or traffic hazard.
  4. The proposed event will be of a nature and size appropriate to the proposed venue, location, or site, and will occur during a time period approved for that venue, location, or site.
  5. The proposed event will not include animals except pursuant to regulations regarding animals in parks set forth in Chapter 19.20 of this Code.
  6. A transportation management/parking plan has been approved by the City for the event to the extent such a plan is deemed necessary by the City.
- B. In deciding whether to approve an application, no consideration may be given to the message of the event, the content of speech, or the identity or associational relationships of the applicant.

### 19.40.060 – Denial/revocation of permit

The Police Department shall deny any application for an expressive activity permit or revoke a permit if the Department finds any of the following:

- A. One or more of the approval criteria specified in Section 19.40.050 is not or can no longer be met.
- B. The applicant has knowingly made a false, misleading or fraudulent statement of fact to the City in the application process.
- C. The application does not contain the information required by this chapter.
- D. The application does not satisfy the requirements of this chapter.
- E. The applicant fails to comply with any conditions of approval including, but not limited to:

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1. Remittance of fees, charges or deposits,
2. Submittal of an indemnification agreement and/or proof of insurance for the event as required by the City;
3. Timely receipt of all required approvals; and
4. A condition that if City property is destroyed or damaged by reason of permittee's use, event or activity and the damage or destruction is directly attributable to the permittee, the permittee shall reimburse the City for the actual replacement or repair cost of the destroyed or damaged property.

F. The applicant has damaged City property and has not paid in full for such damage or has other outstanding and unpaid debts related to a prior community event permit issued by the City.

### 19.40.070 – Permit Fees

Expressive activity permit application fees and other additional fees and charges, including neighborhood notification fees, for the use of city streets or other city-owned or controlled property pursuant to this chapter shall be established by separate resolution of the City Council.

### 19.40.080 – Appeals

An applicant may appeal the denial or revocation of a permit by providing the City Manager or designee written notice of appeal within five (5) days of the denial. The City Manager or designee shall hold a hearing within five (5) days of the filing of a notice of appeal, at which time applicant may present any and all evidence, testimony, and information relevant to the City Manager's decision. The City Manager or designee, within five (5) days following the appeal hearing, shall issue a decision. The decision of the City Manager or designee shall be mailed or delivered to the applicant and shall be final and binding.

### 19.40.090 – Interference with Expressive Activity Prohibited

It shall be unlawful for any person to interfere with an event permitted under this chapter by engaging in the following acts when done with the intent to cause interference:

- A. Blocking, obstructing, or impeding the passage of participants, vehicles, or animals in the community event along the community event route.
- B. Walking or running, driving a vehicle, riding a bicycle or skateboard, or using any similar device through, between, with, or among participants, vehicles, or animals in the community event.
- C. Dropping, throwing, rolling, or flying any object toward, among, or between participants, vehicles, or animals in a community event.

### 19.40.100 – Hold Harmless

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Each permittee shall execute a hold harmless agreement in a form approved by the City agreeing to defend, indemnify, and hold harmless the City against losses and liabilities incurred from the conduct of the permittee or its officers, employees, and agents.

### **19.40.110 – Display of Expressive Activity Permit**

A copy of the expressive activity permit shall be displayed at the community event site and shall be exhibited upon demand of any City official.

### **19.40.120 – Administrative Regulations**

The City Manager, or designee, may adopt administrative regulations that are consistent with and that further the terms and requirements set forth within this chapter. All such administrative regulations must be in writing.

### **19.40.130 – Penalties**

Any person who intentionally violates any of the provisions of this chapter shall be guilty of an infraction. Violations of this chapter may be enforced pursuant to any laws and remedies available to the City including but not limited to enforcement as an infraction and/or public nuisance pursuant to chapters 1.42, 1.44 and 1.46 of this code.

## SUMMARY ORDINANCE NO. 1998

**AN ORDINANCE OF THE CITY OF SAN RAFAEL CITY COUNCIL AMENDING THE SAN RAFAEL MUNICIPAL CODE TO CHANGE THE NAME OF TITLE 19 FROM “OPEN SPACE” TO “PUBLIC PARKS, PROPERTY, AND OPEN SPACE”; TO REPEAL CHAPTER 8.10 (PARKS AND RECREATION) AND ADD A NEW CHAPTER 19.20 (PARKS AND RECREATION) TO TITLE 19; TO REPEAL CHAPTER 5.70 (MEETINGS ASSEMBLIES AND PARADES IN PUBLIC PLACES) OF TITLE 5 AND ADD A NEW CHAPTER 19.30 (ASSEMBLIES AND PARADES IN PUBLIC STREETS AND RIGHTS-OF-WAY) TO TITLE 19; TO ADD NEW CHAPTER 19.40 (EXPRESSIVE ACTIVITIES IN PUBLIC PLACES) TO TITLE 19; TO ADD NEW SECTION 5.60.054 TO CHAPTER 5.60 (PARKING REGULATIONS); AND FINDING THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

This Summary concerns a proposed ordinance of the City Council of the City of San Rafael, designated as Ordinance No. 1998, which is scheduled for adoption by the San Rafael City Council at its regular meeting of August 16, 2021. The City Clerk has been directed to publish this Summary pursuant to City Charter and California Government Code section 36933(c)(1).

Ordinance No. 1998 will change the title of San Rafael Municipal Code (SRMC) Title 19 from “Open Space” to “Public Parks, Property, and Open Space” and will consolidate in Title 19 several of the Municipal Code’s regulations governing the use of public property. The Ordinance will amend SRMC Chapter 8.10 --“Parks and Recreation,” and move it to become new SRMC Chapter 19.20 – “Parks and Recreation”. The Ordinance will also amend SRMC Chapter 5.70 – “Meetings, Assemblies and Parades in Public Places”, and move it to become new SRMC Chapter 19.30 – “Assemblies and Parades in Public Streets and Rights-of-Way”. The Ordinance will add to the San Rafael Municipal Code a new Chapter 19.40 – “Expressive Activity in Public Places”, to establish special regulations for activities on public property that are considered to be “expressive activities” that are given special protection by the United States and California Constitutions. The Ordinance will also add new Section 5.60.054 to prohibit overnight camping in parking garages owned or controlled by the City of San Rafael.

Copies of Ordinance No. 1998 will be available for public review as of Friday, August 6, 2021 at the San Rafael City Clerk’s Office, 1400 Fifth Avenue, 2nd Floor, Room 209 during regular business hours, 8:30 a.m. to 5:00 p.m., and on the City’s website: <https://www.cityofsanrafael.org>. You may also contact Lisa Goldfien, Assistant City Attorney, at (415) 485-3080 or [lisa.goldfien@cityofsanrafael.org](mailto:lisa.goldfien@cityofsanrafael.org) for information.

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LINDSAY LARA  
San Rafael City Clerk  
Dated: 08/06/21